

December 1, 2016

Via Electronic Filing

Honorable Gary Shinnars, Executive Secretary
Office of the Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570

***Re: NBCUniversal, Inc.
NLRB Case No. 02-CA-115732***

Dear Executive Secretary Shinnars:

Charging Party National Association of Broadcast Employees & Technicians – Communications Workers of America, AFL-CIO ("NABET-CWA") requests leave to file this brief reply to Respondent NBCUniversal, Inc.'s Answering Brief in the above unfair labor practice matter. By letter dated September 27, 2016, Respondent requested leave to file a limited response to Counsel for the General Counsel's September 2, 2016 statement of position. Your Office on October 4, 2016 granted the request with the direction the "answering brief will be limited to responding to Counsel for the General Counsel's argument that the Board should accrete Content Producers into the "A" unit of the NBC-National Association of Broadcast Employees and Technicians ("NABET") Master Agreement."

Respondent stated, on page 2 of its Answering Brief, "NABET never sought to include Content Producers in the "A" Unit...". NABET-CWA asks the Board to review its unit clarification petition, NLRB Case No. 02-UC-625. On the face of Attachment B, NABET-CWA added "Content Producer" to list of classifications under the "A" Agreement (technical employees), "H" Agreement (Chicago Newswriters), "M" Agreement (Los Angeles

Newswriters) and "N" Agreement (New York Newswriters).¹ NABET-CWA has one bargaining unit at NBC, with several agreements addressing wages and terms and conditions of employment for a specific location or job. For many years, the Video Journalist classification has been covered under the "A," "H," "M," and "N" Agreements because, like the Content Producer position, it is a crossover or hybrid job. The Content Producer classification can be treated in a similar manner.

Respondent argues at page 4 of its Answering Brief that it will be "severely prejudiced" if the "new" argument is allowed at this stage. The argument is not new. Respondent further asks the Board to reopen the record due to the "limited record evidence" on the community of interest between the Content Producers and bargaining unit employees who worked under the "A" Agreement. (Answering Brief, page 6-7).

The inclusion of the Content Producers in NABET-CWA's bargaining unit under the "A," "H," "M," and "N" Agreements was litigated thoroughly during the 25-day hearing in 2011. NABET-CWA asks the Board to review the hearing transcripts and the post-hearing briefs in the unit clarification case, which detail the extensive record evidence developed on the issue. Respondent (and Petitioners) repeatedly addressed the community of interest and functional integration factors vis-à-vis the Content Producers and the unit employees. Indeed, Respondent argued the absence of a community of interest between the Content Producers and unit employees working under the "A" Agreement in its brief. *See NBC's post-hearing brief at pp. 35-38 (very little in common with the "A" Agreement employees); pp. 61-62 (Union failed to show a community of interest between the Content producers and the "A" Agreement employees); pp. 63-65 (very little interchange between Content Producers and unit employees)*

¹ The Acting Regional Director's decision in 02-UC-625 noted the Petitioners' petitions sought to include the Content Producers in the unit under the "A," "H," "M," and "N" Agreements.

under the "A" Agreement); and p. 75 (Content Producer job is different from other positions under the "A" Agreement).

Additionally, Respondent acknowledged in its post-hearing brief in the unit clarification case that there are no more local media newswriters employed by NBC under the "H," "M," and "N" Agreements. None. (NBC Post-Hearing Brief pp. 37-38). All of the newswriters were converted to Content Producers (and removed from the bargaining unit) or laid off by Respondent.

NABET-CWA focused on the traditional community of interest and functional integration factors during the lengthy representation hearing. Respondent focused its evidence and arguments on the parties' bargaining history and language in the Master Agreement, but it did respond to Petitioner's evidence and arguments. Respondent may regret the emphasis it placed on arguments it has since abandoned. That does not, however, allow it to now supplement the record on a matter that was fully addressed.

Almost eight (8) years have passed since NABET-CWA and its Locals filed the petitions and unfair labor practice charges. The Regions put the unit clarification petitions on the shelf for two (2) years while they investigated the charges. The Regions finally processed the petitions in 2011. The Board took two (2) years to affirm the Acting Regional Director's decision. Respondent repeatedly bemoaned the prejudice it will endure. NABET-CWA respectfully asks the Board to consider the harm endured by the dozens of bargaining unit members who were removed from the unit by Respondent in 2008 and 2009. The Board and the Board alone can enforce the statutory rights of the employees.

Respondent's request to strike the argument raised by Counsel for the General Counsel, and its alternative request to reopen the record in this matter, must be denied. Thank you for your attention to this important matter.

Respectfully submitted,



Judiann Chartier
CWA Headquarters Counsel

Certification

I hereby certify that on this 1st day of December, 2016, I served a copy of NABET-CWA's letter, by facsimile, upon:

Rachel F. Feinberg, Counsel for the General Counsel (Rachel.Feinberg@blrb.gov)

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Dated: December 1, 2016



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